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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

JULIAN PALMER BLOUIN,

Defendant and Appellant.

E057765

(Super.Ct.No. RIF137239)

OPINION

APPEAL from the Superior Court of Riverside County. Becky Dugan, Judge.
Affirmed.

Nancy J. King, under appointment by the Court of Appeal, for Defendant and
Appellant.

No appearance for Plaintiff and Respondent.

INTRODUCTION¹

On January 23, 2008, a jury found defendant and appellant Julian Palmer Blouin guilty of one count of burglary in the first degree, a violation of Penal Code section 459.² The jury also found true an allegation that during the commission of the offense, a person was present in the residence within the meaning of section 667.5, subdivision (c)(21). Thereafter, following a bench trial, the court found that defendant had suffered two prior serious felony convictions within the meaning of section 667, subdivision (a): robbery with the personal use of a firearm (§§ 211, 12022.5, subd. (a)) in 1991; and robbery and kidnap for ransom (§§ 211, 209) in 1968. These convictions were also found to be serious and violent felony priors (§§ 667, subds. (c), (e)(2)(A), 1170.12, subd. (c)(2)(A)), as was a third offense, a robbery conviction from 1964.

On February 29, 2008, the trial court denied defendant's request to strike his priors and sentenced him to a total indeterminate term of 35 years to life in state prison. On April 4, 2008, defendant filed a notice of appeal. On February 8, 2010, we affirmed the judgment with directions to the trial court to correct a clerical error in the sentencing minute order and abstract of judgment.

¹ On May 30, 2013, this court granted a request to take judicial notice of its file in case No. E045510. The facts and procedural history in this opinion are taken from case No. E045510.

² All further statutory references are to the Penal Code unless otherwise indicated.

On November 29, 2012, defendant filed a letter with the trial court asking for resentencing under the newly enacted Proposition 36. The superior court considered the letter as a Petition for Recall of Sentence pursuant to section 1170.126. The district attorney opposed the petition. On December 6, 2012, the trial court found that defendant was ineligible for resentencing and denied the petition. On December 19, 2012, defendant filed a timely notice of appeal.

STATEMENT OF FACTS

On June 17, 2007, Mr. Trammel was in his garage. Defendant stopped his truck on the street in front of Mr. Trammel's home and offered to sell Mr. Trammel a lawnmower that was in the back of the truck. Mr. Trammel declined to buy the lawnmower. Defendant then moved his truck and parked it in front Mr. Trammel's next door neighbor's house. Mr. Trammel saw defendant enter the neighbor's open garage, leave the garage with the neighbor's lawnmower, and then place the lawnmower in the back of his truck. The victim testified that he was inside his home when the lawnmower was taken from his garage, and that he had not given defendant permission to take the lawnmower.

ANALYSIS

After defendant appealed, and upon his request, this court appointed counsel to represent him. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case, a summary of the facts and potential arguable issues, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but he has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

DISPOSITION

The judgment is affirmed.

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McKINSTER
Acting P.J.

We concur:

RICHLI
J.

KING
J.